



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0113; Notice 2]

#### Mack Trucks, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of petition.

**SUMMARY:** Mack Trucks, Inc., (Mack Trucks), has determined that certain model year (MY) 2015-2023 Mack GU/GR Class 8 trucks and truck-tractors do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. Mack Trucks filed an original noncompliance report dated November 1, 2022, and amended the report on November 3, 2022. Mack Trucks petitioned NHTSA on November 23, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the denial of Mack Trucks' petition.

**FOR FURTHER INFORMATION CONTACT:** Leroy Angeles, Safety Compliance Engineer, Office of Vehicle Safety Compliance, NHTSA, (202) 366-5304.

#### SUPPLEMENTARY INFORMATION:

**I. Overview:** Mack Trucks determined that certain MY 2015-2023 Mack GU/GR Class 8 trucks and truck-tractors do not fully comply with paragraph S6.4.3(a) and Table V-b of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108).

Mack Trucks filed an original noncompliance report dated November 1, 2022, and amended the report on November 3, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mack Trucks petitioned NHTSA on November 23, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety,

pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.<sup>1</sup>

Notice of receipt of Mack Trucks' petition was published with a 30-day public comment period, on January 17, 2023, in the **Federal Register** (88 FR 2759). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2022-0113."

**II. Vehicles Involved:** Approximately 27,544 MY 2015-2023 Mack GU/GR Class 8 trucks and truck-tractors, manufactured between September 1, 2014, and September 30, 2022, are potentially involved:

**III. Noncompliance:** Mack Trucks explains that the subject vehicles are equipped with turn signal lamps that do not meet the visibility requirement at all angles specified by S6.4.3(a) and Table V-b of FMVSS No. 108. Based upon different axle positions and frame extension configurations, the forward turn signals on specific vehicles are not compliant with the 45 degree inboard and/or 15 degree downward angle visibility requirement.

**IV. Rule Requirements:** Paragraph S6.4.3 of FMVSS No. 108 includes the requirements relevant to this petition. A manufacturer is required to certify compliance of each lamp function to one of two visibility requirement options: the lens area option or the luminous intensity option. The manufacturer may not thereafter choose a different option for that vehicle.

**V. Summary of Mack Trucks' Petition:** The following statements presented in this section, "V. Summary of Mack Trucks' Petition," are the statements provided by Mack Trucks. They do not

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<sup>1</sup> Mack Trucks' petition failed to include all of the necessary components of a petition pursuant to 49 CFR 556.4. The petition described the noncompliance, but failed to include any reasoning for why the noncompliance is inconsequential to safety. A petition is required to: "Set forth all data, views, and arguments of the petitioner supporting [the] petition." *Id.* § 556.4. Absent any reasoning, a petitioner cannot meet its burden of persuasion that a noncompliance is inconsequential to safety. Such an invalid petition does not require a response by the agency. Nevertheless, in this instance, the agency is publishing this notice to help ensure Mack Trucks and other petitioners are aware that a petition for inconsequentiality must be properly justified. In the future, the agency may reject such incomplete petitions without further consideration.

reflect the views of the Agency. Mack Trucks describes the subject noncompliance and contends, without explanation, that the noncompliance is inconsequential as it relates to motor vehicle safety.

Mack Trucks explains that after FMVSS No. 108 was updated in 2014, certain vehicle configurations were not updated accordingly which resulted in the subject vehicles being noncompliant with the taillamp signal visibility requirements provided in S6.4.3. Mack Trucks states that due to an unrelated engineering change, the subject noncompliance was identified. Mack Trucks found the subject vehicles did not meet the minimum unobstructed view requirement of 1,250 sq mm at all the required angles. The standard requires the unobstructed view to be met at all angles between the corner points, up to and including 15 degrees down and 45 degrees inboard toward the vehicle's longitudinal centerline; however, for the GU and GR Axle Back models of the subject vehicles failed to meet the requirements past 15 degrees down and 37 degrees inboard angle. For the GU and GR Axle Forward and Axle Forward Extended Frame Rails models of the subject vehicles, Mack Trucks found that the subject vehicles failed to meet the requirements past 7 degrees down and 45 degrees inboard angle. Mack Trucks provides illustrations to show the noncompliances on the affected vehicle configurations.

Mack Trucks concludes by stating its belief that the subject noncompliance is inconsequential to motor vehicle safety and its petition for relief from providing notice and remedy for the noncompliance be granted. Mack Trucks failed to include any reasoning for why the noncompliance was purportedly inconsequential to safety.

## **VI. NHTSA's Analysis:**

Mack Trucks did not provide any data, views, or arguments supporting its belief that this noncompliance is inconsequential to safety, as required by 49 CFR 556.4. It is the petitioner's burden to establish the inconsequentiality of a failure to comply with a FMVSS. FMVSS are adopted to "meet the need for motor vehicle safety." 49 U.S.C. 30111(a). "[M]otor vehicle safety" is "the performance of a motor vehicle or motor vehicle equipment in a way that protects

the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.” 49 U.S.C. 30102(a)(9). Given the safety need for the FMVSS, an invalid petition that fails to provide justification that a specific noncompliance is inconsequential to motor vehicle safety need not be considered. Nevertheless, in this instance, the agency is publishing this notice to help ensure petitioners are aware of the requirement to provide “all data, views, and arguments of the petitioner supporting [the] petition.” 49 CFR 556.4. Mack Trucks and other petitioners are on notice that the agency may reject incomplete petitions without further consideration and they must carry out their statutory recall obligations without delay.

#### **VII. NHTSA’s Decision:**

In consideration of the foregoing, NHTSA has decided that Mack Trucks has not met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, Mack Trucks’ petition is hereby denied and Mack Trucks is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

**(Authority:** 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.)

**Otto G. Matheke III,**

*Acting Associate Administrator for Enforcement.*

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